

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

TRUCK-RAIL HANDLING INC., and  
QUALITY TRANSPORT, INC.,

Plaintiffs,

v.

BURLINGTON NORTHERN AND SANTA  
FE RAILWAY COMPANY,

Defendant.

No. C 02-02825 JSW

**ORDER TO SHOW CAUSE**

On May 10, 2005, Defendant Burlington Northern and Santa Fe Railway Company (“BNSF”) filed a miscellaneous administrative request for an additional seven days in which to file its reply brief, pursuant to this Court’s Order requiring briefing on Plaintiffs’ conspiracy to monopolize claim. Plaintiffs’ opposition was due on May 6, 2005, and BNSF’s reply was due on May 13, 2005.

BNSF seeks the additional time because although Plaintiffs served their opposition brief and two declarations in support of the opposition, BNSF claims that Plaintiffs failed to serve the exhibits attached to those declarations on BNSF. A review of the Plaintiffs’ certificate of service indicates that Plaintiffs served the exhibits and their brief by U.S. mail on May 6, 2005.

BNSF also requested that Plaintiffs provide it with copies of the exhibits, and Plaintiffs replied that the exhibits already were in BNSF’s possession. The Court has conducted a cursory review of Plaintiffs’ opposition brief and concludes that the new exhibits referenced in that brief are not sufficiently identified that BNSF could easily locate the documents in its own files. Moreover, it would appear that service by mail was an inadequate method of service to insure that BNSF received the exhibits in sufficient time to prepare its reply brief.

1 By a separate Order issued on this date, the Court has ordered Plaintiffs' to serve the exhibits  
2 on BNSF by May 11, 2005. Plaintiffs are FURTHER ORDERED TO SHOW CAUSE, in writing,  
3 why sanctions should not be imposed in the form of payment of the attorneys' fees BNSF incurred in  
4 attempting to obtain the exhibits and seeking relief from the Court for the additional time necessary to  
5 respond to the briefing. Plaintiffs' response shall be due on May 20, 2005, and the Court shall  
6 address this matter at the case management conference set for June 10, 2005.

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8 **IT IS SO ORDERED.**

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10 Dated: May 11, 2005

11 /s/ Jeffrey S. White  
12 JEFFREY S. WHITE  
13 UNITED STATES DISTRICT JUDGE  
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